UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,295	12/12/2003	Juan M. Huerta	YOR920030486US1 (8728-660	2480

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EXAMINER
CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
08/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)	
Office Action Summary	10/734,295	HUERTA ET AL.	
	Examiner	**Art Unit**	
	John Chavis	2193	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 December 2003_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-40_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-40_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _12/1/03_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2.   The claimed invention of claims 22-31 are directed to non-statutory subject matter. Claim 22 is non statutory; since it recites only software components (which are non statutory); while, what is expected is hardware components or a combination of hardware and software components. The dependent claims do not cure the problem of its respective parent. Therefore, they are rejected for the same reasons.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Rostoker (5,544,066).

What is claimed is:	Rostoker
1. A method for generating an application, comprising the steps of:	See the title and the abstract.
receiving a functional description	See the third and fourth sentences of

of an application; and

the abstract.

automatically partitioning the functional description of the application into a plurality of modules based on parameterized criteria.

See col. 1 lines 52-55, col. 2 line 30-40, col. 8 lines 28-32, col. 14 line 66-col. 15 line 5, and col. 33 lines 15-18 & 62-64.

2. The method of claim 1, wherein the functional description of the application comprises a flowchart description.

See col. 41 lines 7-15.

3. The method of claim 1, wherein the functional description of the application comprises a markup description.

See col. 40 line 64-col. 41 line 1.

4. The method of claim 1, wherein the parameterized criteria comprises a measure of application latency.

See col. 34 line 50-col. 35 line 4.

5. The method of claim 4, wherein automatically partitioning comprises: partitioning the functional description of the application into a plurality of different partitions; and using the parameterized criteria to determine which partition, among the plurality of different partitions, provides a minimal application latency.

See col. 36 lines 43-58.

6. The method of claim 5, wherein the parameterized criteria comprises a cost function, which is based on transmission and compilation time for different size modules, as the measure of application latency.

See col. 46 line 55-col. 47 line 4 and Rostoker's claim 23.

7. The method of claim 5,

See col. 44 lines 57-60.

wherein the parameterized criteria
comprises a probability measure for
determining a probability of a given
path in a partition being traversed.

8. The method of claim 1, further   See the rejection of claim 1.
comprising automatically generating
application code for each module.

9. The method of claim 1, further
comprising automatically generating
a controller that can navigate
between the modules of the
application.

10. The method of claim 1, wherein   See the rejection of claim 1.
the step of receiving comprises
automatically fetching the functional
description of the application from a
persistent storage location; and
performing on-line dynamic
remodularization of the application.

11. The method of claim 10,   See col. 44 lines 6-26.
wherein performing on line dynamic
remodularization comprises:
adapting the parameterized criteria
according to changes in an
environment in which the application
is deployed; and automatically
partitioning the functional
description of the application into a
plurality of modules based on the
adapted parameterized criteria.

Claims 12-17 are rejected as claims 1-6.

As per claims 18-21, see the rejection of claims 8-11.

The features of claims 22-23, 27, 34-36 and 38 are rejected as claim 1. See also

figs. 8, 12 and 18.

In reference to claims 24-25, see the rejection of claims 2-3.

Claims 26 and 29 are rejected as claim 6.

As per claim 28, see the rejection of claim 4.

The features of claims 30-31 are taught via claims 8-9.

In reference to claim 32, see the rejection of claim 5.

Claim 33 is rejected as claim 3.

As per claim 37, see the rejection of claim 6.

The features of claims 39-40 are taught via claims 3 and 9.

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-F, 9:00am-5:30pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

John Chavis
Primary Examiner AU-2193